

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

XAVIER JOHNSON,)	
)	
Petitioner,)	
)	
v.)	1:07CV338
)	
GRADY J. HAYNES,)	
)	
Respondent.)	

O-R-D-E-R

The Recommendation of the United States Magistrate Judge was filed with the court in accordance with 28 U.S.C. § 636(b) and, on March 11, 2008, was served on the parties in this action. Petitioner objected to the Recommendation.

The court has appropriately reviewed the portions of the Magistrate Judge's report to which objection was made and has made a de novo determination which is in accord with the Magistrate Judge's report. The court therefore adopts the Magistrate Judge's recommendation.

IT IS THEREFORE ORDERED that Respondent's motion for summary judgment [Doc. No. 5] be **GRANTED**, that Petitioner's motion for summary judgment [Doc. No. 13] be **DENIED**, and that this action be dismissed with prejudice. A judgment dismissing this action will be entered contemporaneously with this order. Finding no

substantial issue for appeal concerning the denial of a constitutional right affecting the conviction, nor a debatable procedural ruling, a certificate of appealability is not issued.

William L. Osten, Jr.
United States District Judge

Date: May 6, 2008